



45/12

Delegated decision report

Committee

DECISION UNDER DELEGATED POWERS

**DECISION CANNOT BE TAKEN BEFORE MONDAY 17
DECEMBER 2012**

Title

**AGREEMENT TO VECTIS HOLDINGS LTD BEING TREATED
AS A SPECIAL PURCHASER OF BLACKGANG VIEWPOINT
CAR PARK, CHALE**

Report of

**DEPUTY LEADER AND CABINET MEMBER FOR THE
ECONOMY AND REGULATORY SERVICES**

EXECUTIVE SUMMARY

1. The paper seeks approval for the council to negotiate with Vectis Holdings Limited (the owners and operators of Blackgang Chine) as a special purchaser for the Blackgang viewpoint car park on Blackgang Road, Chale.
2. Vectis Holdings Limited has plans to combine the car park with its adjacent land and to develop an information centre as a showcase for the location and the Island, together with a catering facility for the benefit of tourists and island residents alike.
3. Any final terms of sale agreed with Vectis Holdings Ltd as a special purchaser would be subject to a further cabinet report to confirm that the council is achieving best consideration from the disposal.

BACKGROUND

4. The council owns the Blackgang Viewpoint Car Park situated to the west of the A3055 Blackgang Road, overlooking the Blackgang Chine tourist attraction.
5. An approach has been made to the council by Vectis Holdings Limited, the owner and operator of Blackgang Chine (and Robin Hill), which wishes to acquire the site, which it adjoins on three sides (the plan in the Appendix to this report illustrates this), in order to expand its tourist draw on a year round basis.
6. The Vectis Holdings Limited proposal is to develop an information centre and catering facility with toilets for use by the public showcasing and supporting (an element of profit would be invested into activity based projects) the Area of Outstanding Natural Beauty (AONB), footpaths and bridleways within this locality, and across the Island.

7. The council has advised Vectis Holdings Ltd that, as a minimum it would look to apply the following conditions on to its disposal of the asset:-

- The, car park must remain as a free public car park with minimal reduction in available spaces.
- The current iconic view towards the Needles must not be obstructed and be preserved for the long term enjoyment of residents and visitors alike.
- The car park must be developed within a reasonable timeframe and to improve the overall quality and availability of the tourism offer in the local area.

Vectis Holdings Ltd has confirmed that it is prepared to make a proposal to the council for its acquisition of the car park on this basis.

8. It would be normal practice for the council to market a site for disposal to ensure that it receives best consideration for it through a competitive process. Ultimately the value of a site will depend on the price that possible purchasers are willing to pay for it; this in itself will be determined by prevailing market conditions at the time of marketing, and on any restrictions placed by the council on the sale in respect of use and development (such as the continued provision of free public parking and ensuring that any development has no adverse impact upon the views).
9. The council does however make provision for dealing with a single bidder for a site where that bidder falls within the definition of a “special purchaser” as defined by the Royal Institution of Chartered Surveyors (RICS), namely “a purchaser to whom a particular asset has a special value because of the advantages arising from its ownership that would not be available to general purchasers in the market”.
10. Where an organisation that meets this definition of special purchaser wishes to acquire a council asset it is the council's practice to obtain two independent valuations of the asset; the costs of these valuations being met by the prospective special purchaser. This helps the council to ensure that it would be receiving the “best consideration” for the site should the special purchaser be willing to pay the value of the site as assessed by the independent valuation.
11. The best consideration that the council may receive for a site does not necessarily have to be only defined in monetary terms. The council may wish to achieve some social, economic or other benefits from the disposal of the site and could seek to impose restrictive covenants on a purchaser to ensure that such benefits are received. The overall value of these benefits can however be based only on a clear understanding of the financial value of the site as determined by a proper valuation.

12. Vectis Holdings Limited falls within the RICS definition of a special purchaser as its land adjoins the subject site and the acquisition would enable it to sustain and expand its tourism offer providing a year round tourist facility which will help to sustain jobs and the local economy. For these reasons it has asked that the council agree to treat with it as a special purchaser for the site so that it can enter into detailed negotiations for its purchase.
13. The inclusion of this decision on the council's Forward Plan and in the Capital Receipts Programme (discussed at Overview and Scrutiny Committee and approved by a cabinet member delegated decision) has prompted a small number of other parties to express a tentative level of interest in the site. None have made any specific proposals as to use or development of the site and these may only become clear if the council was to offer the site to the open market with the same restrictions as have been accepted by Vectis Holdings Ltd (as set on in paragraph 7).

STRATEGIC CONTEXT

14. The sale of the site and subsequent developments planned by Vectis Holdings Ltd would contribute towards the "thriving island" theme of the sustainable community strategy (Eco Island) as it would help protect and enhance the island's natural beauty and would support economic development and regeneration, particularly through tourism. It would also contribute to the "healthy and supportive" theme particularly through its promotion of active lifestyles by helping to reduce levels of obesity in all ages, and improving the health emotional wellbeing and life expectancy across the Island.
15. One of the council's key principles in delivering its corporate plan (2011-2013) is to "actively seek to sell or dispose of assets that are surplus to requirements". The disposal of this site would be in accordance with this principle.

CONSULTATION

16. No explicit consultation has been possible, so far, over the proposal owing to the confidentiality of the approach from Vectis Holdings Limited. There will however be an opportunity for consultation on any terms of agreement for sale should they be achieved following negotiations.
17. The presentation of the Capital Receipts Programme to Overview and Scrutiny Committee prompted discussion regarding the loss of free public car parking and the loss of the views toward the West Wight, both of which will be protected within covenants applying to any transfer.
18. A draft of this report has been shared with the local member who is happy that discussions should proceed with Vectis Holdings Ltd but has asked to be updated with local feedback about the disposal and to be consulted on any draft terms of sale that may be agreed with it.
19. Chale Parish Council has asked that in any sale and subsequent development of the site; access to the coastal path is maintained; the current practice of free public car parking continues to be protected; the legal rights of access to the property known as Hawks Ledge remained unaffected; the memorial seats are not removed and included

as part of an on-going maintenance programme and its Descriptive Map is not removed. Niton and Whitwell Parish Council have asked to be kept informed of the progress of the proposed sale and, in accordance with paragraph 16 of the report, included in the consultation on any terms of agreement for sale should they be achieved following negotiations.

FINANCIAL / BUDGET IMPLICATIONS

20. There are no direct financial or budget implications arising from the recommendations in this paper. The independent valuations of the site are to be funded by Vectis Holdings Limited. If terms are agreed for the sale of the site to Vectis Holdings Limited as a special purchaser then the council may receive a capital receipt or other form of best consideration from the disposal, based on the valuations of the site.
21. As the car park is currently free of charge, any disposal would not result in any loss of parking income to the council. Indeed, the council would benefit from revenue savings (it is not realistically possible to estimate these at this time) as it would no longer be responsible for repair and maintenance, or any other outgoings.
22. There is currently, however, an ice cream van operator who occupies part of the site, under the terms of a licence, which produces an income to the council of £4,000 per annum. Should the decision be taken to dispose of this land, then the council would lose this income which would create a small shortfall in its overall revenue budget.

CARBON EMISSIONS

23. There are no direct implications for the council's carbon management plan arising from the recommendations in this paper. If part of the site is developed as intended there would be a potential increase in the Island's overall carbon footprint. There is however no reason to believe that this would be greater than for any other development on the site.

LEGAL IMPLICATIONS

24. The council has the power to dispose of property under section 123 of the local government act 1972, which requires it to achieve "best consideration" in any disposal.
25. Best consideration does not necessarily mean the highest price achievable. It can also be obtained from other additional benefits generated by and for the local community from the disposal, provided that the council observes its fiduciary responsibilities and protects the interests of the community and itself in the transaction.
26. Legal rights currently exist over the site, including a vehicular access to the adjacent Vectis Holdings land and to a property known as Hawks Ledge. The rights to the property known as Hawks Ledge would be unaffected by any disposal (the rights to the Vectis Holdings land would disappear once both sites are in the same ownership).
27. The occupation of part of the site by the ice cream van operator is under the terms of a licence which expired in 2004 but which has not been renewed. The council has, however, continued to invoice the operator, who has continued to pay. As the occupation is not of any specific part of the site and the operator does not occupy this

for 24 hours a day, or year round, it remains a licence. If required, therefore, the council is able to terminate this by the service of an appropriate notice.

28. At present, there appears to be an occupier in a caravan towards the rear of the site. The council will make contact with this occupier in its endeavours to obtain vacant possession prior to any sale, however it is acknowledged that a disposal might occur with this occupier in situ, with the purchaser completing the transfer in full knowledge of this.

EQUALITY AND DIVERSITY

29. The council as a public body is subject to general and specific duties under equality and diversity legislation and as such has a duty to impact assess its service, policies/strategies and decisions with regards to diversity legislation and the nine protected characteristics (race, gender reassignment, disability, age, sex and sexual orientation, religion or belief, pregnancy and maternity, marriage and civil partnership). There are no direct implications for the council's duties under the terms of Equality Act 2010 arising from the recommendations in this paper. There are no opportunities for it to eliminate unlawful discrimination, promote equal opportunities between people from different groups and foster good relations between people from different backgrounds arising from the decision to agree to a special purchaser for the land in question.

PROPERTY IMPLICATIONS

30. As this is a property based report there are not thought to be any further property implications for consideration.

SECTION 17 CRIME AND DISORDER ACT 1998

31. There are no direct crime and disorder implications arising from the recommendations in this paper. If part of the land is developed as intended this is likely to result in year round occupation of part of the site which may result in added security for cars parked in the car park. This may therefore have a positive impact on crime reduction.

OPTIONS

32. The options available to council are as follows:

- (1) To agree to Vectis Holdings Limited being treated as a special purchaser on the conditions set out in the paper (paragraph 7) for the council owned land known as Blackgang Viewpoint car park, subject to a further report to confirm that the council is achieving best consideration from this disposal.
- (2) To offer the council owned land known as Blackgang Viewpoint car park for sale on the conditions set out in the paper (paragraph 7) to all adjacent landowners only, including Vectis Holdings Ltd.
- (3) To offer the council owned land known as Blackgang Viewpoint car park for sale on the conditions set out in the paper (paragraph 7) on the open market and to undertake an appropriate marketing exercise for the site.

(4) To wait until market conditions improve before beginning any process to dispose of the council owned land known as Blackgang Viewpoint car park.

(5) Not to dispose of the council owned land known as Blackgang Viewpoint car park.

RISK MANAGEMENT

33. If the council does not agree to the proposed special purchaser status for Vectis Holdings Limited and, instead, chooses to retain the site, there is a risk that it would not be able to secure improvements in the area that could have a similar impact in terms of the development of tourism and consequent benefit to the local economy as those planned by Vectis Holdings Ltd. It is possible that other third parties may be interested in the site but without the close proximity of local assets the proposed restrictions on the use of the site may prove a barrier to any other proposals being brought forward.
34. There is a low risk that the council may receive a higher consideration for the land if it were to offer it for sale on the open market with the proposed restrictions on use. The independent valuations of the site that will inform the final sale agreement with Vectis Holdings Limited as a special purchaser will ensure that the council is fully aware of the site's value in reaching this agreement.
35. If the site is offered to the open market there is a medium risk that Vectis Holdings Limited may choose not to compete and may elect not to submit an offer.
36. Waiting for an improvement in overall land values on the Island may lead to the council receiving a higher capital receipt for the land than it will be likely to receive currently. The risk is in waiting for an upturn in land values as there can be no certainty if or when this might come and the potential tourism development with consequent boost to the economy that would follow.
37. There remains the risk that even if the council agrees to the special purchaser arrangements it may not be able to agree terms for the sale of the land with Vectis Holdings Limited that offers best consideration for the council (and for the Island).

EVALUATION

38. A decision to agree to the proposed special purchase arrangements with Vectis Holdings Limited does not commit the council to a sale of the land to it. It does however give Vectis Holdings Limited confidence that the council will work with it to achieve the sale subject to suitable terms being agreed which ensures that the council receives best consideration for the site.
39. One of the key issues that the council will need to take in to account before agreeing a sale of the car park to Vectis Holdings Ltd is the degree to which it is able to comply with the proposed conditions of sale as set out in paragraph 7 of this paper. This will be covered by a further paper to Cabinet which will assess the likely compliance of Vectis Holdings Ltd with these conditions in considering whether the council should agree to the disposal of the car park to it. The conditions of sale may reduce the capital receipt the council is able to realise from the disposal of the land, however, it is essential that such protection is delivered as part of any transaction.

40. It is to the council's advantage that a long standing and well respected tourist based local operator is seeking to acquire and invest in the Viewpoint car park. It is arguably best placed to secure investment in the facility and to enhance and improve the quality and diversity of the tourism offer within the area and therefore to help sustain the local economy.

RECOMMENDATION

41. That Option (1) be agreed and adopted:

To agree to Vectis Holdings Limited being treated as a special purchaser on the conditions set out in the paper (paragraph 7) for the council owned land known as Blackgang Viewpoint car park, subject to a further report to confirm that the council is achieving best consideration from this disposal.

APPENDICES ATTACHED

42. [APPENDIX](#) – site plan showing the council owned Blackgang Viewpoint car park.

BACKGROUND PAPERS

43. None.

Contact Point - Barry Cooke, Strategic Manager: Assets,
☎ 01983 821000 e-mail barry.cooke@iow.gov.uk

STUART LOVE
*Strategic Director
Economy and Environment*

COUNCILLOR GEORGE BROWN
*Deputy Leader and Cabinet Member for the
Economy and Regulatory Services*

Decision

Signed

Date
